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**DECLARATION (CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION  
DATA SHEET (37 CFR 1.76)**

Attorney Docket No. 047586-P048US-10106181

As a below named inventor(s), I/we declare that:

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The declaration is directed to:

☐ The attached application, or

☒ Application No. 09/929,866, filed on August 14, 2001

☐ as amended on \_\_\_\_\_ (if applicable).

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including material information which became available between the filing date of the prior application and the National or PCT international filing date of the continuation-in-part application, if applicable; and

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

**FULL NAME(S) OF INVENTORS:**

Inventor one: Shimon B. Scherzer

Signature: \_\_\_\_\_ Citizen of: US

Inventor two: Piu B. Wong

Signature: \_\_\_\_\_ Citizen of: Hong Kong

Inventor three: \_\_\_\_\_

Signature: \_\_\_\_\_ Citizen of: \_\_\_\_\_

Inventor four: \_\_\_\_\_

Signature: \_\_\_\_\_ Citizen of: \_\_\_\_\_

☐ Additional inventors are being named on \_\_\_\_\_ additional form(s) attached hereto.

JAN 15 2002

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**STATEMENT UNDER 37 CFR 3.73(b)**

Applicant/Patent Owner: Shimon B. Scherzer, et al.

Application No./Patent No.: 09/929,866

Filed/Issue Date: August 14, 2001

Entitled: SPACE DIVISION MULTIPLE ACCESS STRATEGY FOR DATA SERVICE

Metawave Communications Corporation

(Name of Assignee)

, a

corporation

Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by, percentage) of its ownership interest is \_\_\_\_\_ %

in the patent application/patent identified above by virtue of either:

A. [ ] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[X] Copies of assignments or other documents in the chain of title are attached.

(NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

November 5, 2001

Date

R. Ross Viguet

Typed or printed name

R. Ross Viguet  
Signature

Attorney for Assignee

Title

**Statement By Assignee to Establish Ownership (37 CFR 3.73(b))**

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, Washington, DC 20231, on the date shown below.

Dated: November 5, 2001

Signature: Rita J. Carr

(Rita J. Carr)

ASSIGNMENT BY INVENTOR

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THIS ASSIGNMENT, made this 28 day of August, 2001 by  
Shimon B. Scherzer and Piu Bill Wong (hereinafter referred to as Assignor), residing at 1648  
Mariani Drive, Sunnyvale, California 94087 and 17280 Clara Street, Monte Sereno, California  
95030, respectively;

WHEREAS, Assignor has invented certain new and useful improvements in  
SPACE DIVISION MULTIPLE ACCESS STRATEGY FOR DATA SERVICE, set forth in a  
Patent application for Letters Patent of the United States, filed herewith; and

WHEREAS, Metawave Communications Corporation, a corporation organized  
under and pursuant to the laws of having its principal place of business at 10735 Willows  
Road, NE; Redmond, Washington 98052 (hereinafter referred to as Assignee), is desirous of  
acquiring the entire right, title and interest in and to said inventions and said Application for  
Letters Patent of the United States, and in and to any Letters Patent of the United States to be  
obtained therefor and thereon.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and  
sufficient consideration, the receipt of which is hereby acknowledged, Assignor has sold,  
assigned, transferred and set over, and by these presents does sell, assign, transfer and set over,  
unto Assignee, its successors, legal representatives and assigns, the entire right, title and  
interest in and to the above-mentioned inventions and application for Letters Patent, and in and  
to any and all direct and indirect divisions, continuations and continuations-in-part of said  
application, and any and all Letters Patent in the United States and all foreign countries which  
may be granted therefor and thereon, and reissues, reexaminations and extensions of said  
Letters Patent, and all rights under the International Convention for the Protection of Industrial  
Property, the same to be held and enjoyed by Assignee, for its own use and benefit and the use  
and benefit of its successors, legal representatives and assigns, to the full end of the term or  
terms for which Letters Patent may be granted and/or extended, as fully and entirely as the  
same would have been held and enjoyed by Assignor, had this sale and assignment not been  
made.

**AND** for the same consideration, Assignor hereby represents and warrants to Assignee, its successors, legal representatives and assigns, that, at the time of execution and delivery of these presents, except for any rights, titles and/or interests that have arisen to Assignee under law or that have already been transferred to Assignee, Assignor is the sole and lawful owners of the entire right, title and interest in and to the said inventions and application for Letters Patent above-mentioned, and that the same are unencumbered and that Assignor has good and full right and lawful authority to sell and convey the same in the manner herein set forth.

**AND** for the same consideration, Assignor hereby covenants and agrees to and with Assignee, its successors, legal representatives and assigns, that Assignor will sign all papers and documents, take all lawful oaths and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of any Letters Patent and applications for Letters Patent for said inventions, without charge to Assignee, its successors, legal representatives and assigns, whenever counsel of Assignee, or counsel of its successors, legal representatives and assigns, shall advise: that any proceeding in connection with said inventions, or said Patent application for Letters Patent, or any proceeding in connection with any Letters Patent or applications for Letters Patent for said inventions in any country, including but not limited to interference proceedings, is lawful and desirable; or, that any division, continuation or continuation-in-part of any application for Letters Patent, or any reissue, reexamination or extension of any Letters Patent, to be obtained thereon, is lawful and desirable.

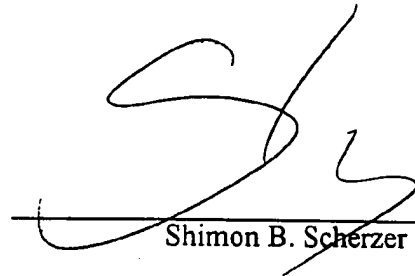
**AND** Assignor hereby requests the Commissioner of Patent and Trademarks to issue said Letters Patent of the United States to Assignee, as Assignee of said inventions and the Letters Patent to be issued thereon, for the sole use and benefit of Assignee, its successors, legal representatives and assigns.

**AND** Assignor hereby grants the following individuals the power to insert on this Assignment any further identification which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document:

FULBRIGHT & JAWORSKI L.L.P.

Jody C. Bishop	44,034	Jerry Mahurin	34,661	David H. Tannenbaum	24,745
Michael J. Fogarty, III	42,541	Thomas J. Meaney	41,990	William B. Tiffany	41,347
Leslie S. Garmaise	47,587	Michael A. Papalas	40,381	R. Ross Viguet	42,203
Matthew D. Jones	44,810				

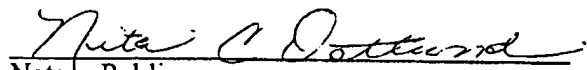
AND Assignor acknowledges an obligation of assignment of this invention to Assignee at the time the invention was made.

  
Shimon B. Scherzer

Date: 8/28/01

United States of America )  
State of Washington ) ss.:  
County of King )

On this 28 day of August, 2001, before me personally came Shimon B. Scherzer, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged execution of the same.

  
Notary Public

Piu Bill Wong  
Piu Bill Wong

Date: 8/28/01

United States of America. )  
State of Washington ) ss.:  
County of King )

On this 28 day of August, 2001, before me  
personally came Piu Bill Wong, to me known to be the individual  
described in and who executed the foregoing instrument, and acknowledged execution  
of the same.

Nita C. Ostlund  
Notary Public